



Present: Hon. Thomas J. McAvoy

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

ROBERT J. POULSON and  
MARGARET A. POULSON,  
Plaintiffs,

-against-

THE BLACK & DECKER CORPORATION,  
Defendant.

ORDER  
3 04-CV-0331TJM/DEP

Pursuant to the oral decision of the Court, entered into the record after hearing oral argument on August 8, 2005, in Albany, New York, it is hereby

ORDERED that:

1. Defendant's Motion for Summary Judgment is Denied without prejudice to renew <sup>limited to the issue of spoliation</sup> in conformity with the Judge's decision; and

2. It is further Ordered that plaintiffs' claim of design defect is hereby dismissed with prejudice; and

3. It is further Ordered that an evidentiary hearing will be held on the issue of spoliation in conformity with the Judge's decision; and

4. It is further Ordered that a further deposition of James McHale <sup>may</sup> ~~will~~ be conducted on or before September 9, 2005.

IT IS SO ORDERED. 9/3/05

  
HON. THOMAS J. McAVOY